

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

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JACQUELINE WIGHTMAN,  
Plaintiff,

-against-

**ORDER**

CV 03-5678 (DRH) (WDW)

COSTELLO MAIONE SCHUCH, INC.  
and MICHAEL SCHUCH,

Defendant(s).

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**WILLIAM D. WALL, United States Magistrate Judge:**

By order dated October 6, 2005, the undersigned recounted the history of the sanctions against defense counsel, Patrick Mielo, which, by that date, amounted to \$3100 for Mr. Mielo's failure to register for ECF despite being repeatedly ordered to do so by the court. Mr. Mielo was given until October 14 to submit, in writing, an explanation for his failure to comply with court orders. On October 17, 2005, Mr. Mielo filed his written submission, three days late. He stated that he had registered for ECF on October 14, but did not receive his password until the 17<sup>th</sup> and thus could not electronically file his letter until then. He does not explain why he waited until October 14, the date his submission was due, to register.

Mr. Mielo was originally ordered to register for ECF by order dated June 3, 2005. That order was repeated on June 21, 2005, and again on July 15, 2005, at which time a \$50 a day sanction was imposed. Despite the orders and the sanctions, Mr. Mielo still did not register. Nor did he ask the court for an exemption or communicate with the court in any way about his failure to comply with the court's orders. In late September, the plaintiff made a motion to compel the production of a settlement agreement, and a conference was held on October 6. As of that date, Mr. Mielo still had not registered or contacted the court, and he was ordered to submit his written explanation.

In the explanation, he recounts various financial and computer difficulties encountered by his firm over a span of time both preceding the court's orders and the imposition of sanctions and up to the present. He says that his firm was forced to move from one office to another in or about December 2004, that the old computer system failed to work properly in the new office, and that it crashed in July 2005. In August 2005, his firm purchased a new computer system, some invoices for which are attached to his letter. He states that he also spent other sums to network the office system and to install software, but attaches no invoices regarding those costs. Finally, he states that, despite repeated calls to a computer technician to come and set up an email account, the technician did not come until October 14, 2005.

While the court sympathizes with any financial and computer difficulties faced by Mr. Mielo and his firm, he still has not really explained why he simply ignored the court's orders. He does state that embarrassment kept him from contacting the court, an explanation that rings hollow, given his firm's financial situation and the mounting fines of \$50 per business day. The court has no wish to add to Mr. Mielo's woes, but such flouting of a court's orders warrants the imposition of sanctions. The court will not require the payment of the full \$3100, but does direct Mr. Mielo to pay a fine of \$250, payable to the Clerk of the Court, no later than November 30, 2005. Moreover, other sanctions imposed on Mr. Mielo payable to the plaintiff remain in force.

Dated: Central Islip, New York  
November 9, 2005

**SO ORDERED:**

s/ William D. Wall  
WILLIAM D. WALL  
United States Magistrate Judge